

Clorox Docket No: 426.58

**REMARKS****1. Present Status of Patent Application**

Upon entry of the amendments in this response, Claims 1, 4-5, 7-17, 20-22, 26-27, 31-37, and 39 remain pending in the present application. Claims 2-3, 6, 18-19, 23-25, 28-30, and 38 have been canceled. More specifically, claims 1, 4-5, 7, 16, 20, and 34 are directly amended. These amendments are specifically delineated in the listing of claims herein. It is believed that the foregoing amendments add no new matter to the present application.

**2. Response to Rejections of Claims under 35 USC 102.**

Claims 1 is not Anticipated by WO 02/06435 (WO '435). Claim 2 has been canceled.

Claim 1 has been amended to incorporate the limitations of Claims 2 and 3 with additional limitations. (WO '435) does not disclose all the limitations of amended Claim 1, therefore (WO '435) does not anticipate Claim 1.

**4. Response to Rejections of Claims under 35 USC 103.**

Claims 4-5, 7-17, 20-22, 26-27, 31-37, and 39 are not Rendered Obvious by WO '435 in light of WO 02/055650 (WO '650) and Policicchio et al. 6,663,306 (Policicchio). Claims 3, 6, 18-19, 23-25, 28-30, and 38 have been canceled.

Claims 4-5 and 7-15 are dependent on amended Claim 1. Claim 1 has the limitations "wherein said composition comprises glycol ether solvent, anionic surfactant, and propellant, and wherein the ratio of anionic surfactant to glycol ether solvent is less than 0.2"

In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical*, 837, F.2d 469, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 USPQ 871, 881 (CCPA

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1981).

(WO '435) describes aerosol compositions including propellants and mentions anionic surfactants (pg 7, lines 8-13) but provides no examples or recommended concentrations or ratios. (WO '650) describes a wipe containing a carpet cleaning composition with an example (Option 2) containing an undisclosed mixture of anionic and nonionic surfactants and ethanol as a solvent. (WO '650) describes glycol ethers as possible solvents (pg 8, lines 4-10) but provides no recommended concentrations or examples. (WO '650) describes no aerosol formulations or the use of propellants, since it is concerned with compositions on wipes. Policicchio describes cleaning formulations sprayed onto hard surfaces and mopped, but does not describe aerosol formulations or the use of propellants.

*Applicants can rebut a prima facie case of obviousness based on overlapping ranges by showing the criticality of the claimed range. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." In re Woodruff, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). (MPEP 2144.05 III)*

(WO '435) discloses no aerosol formulations containing propellant, anionic surfactant, and glycol ether solvent with a critical ratio of anionic to glycol ether. (WO '650) discloses no aerosol formulations containing propellant, anionic surfactant, and glycol ether solvent with a critical ratio of anionic to glycol ether. Policicchio discloses no aerosol formulations containing propellant, anionic surfactant, and glycol ether solvent with a critical ratio of anionic to glycol ether.

The Applicants' invention discloses aerosol formulations containing propellant, anionic surfactant, and glycol ether solvent with a critical ratio of anionic to glycol ether. Note the comparison to Comparative Examples in Tables III and IV of the application in terms of foam density and foam break, which are critical properties of the invention. Since the prior art has not disclosed suitable compositions with this critical ratio of ingredients, the obviousness rejection has been overcome.

Likewise, independent Claims 16 and 34 have the same limitation.

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**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated., and that the now pending Claims 1, 4-5, 7-17, 20-22, 26-27, 31-37, and 39 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (510) 271-7521.

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